APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,720	07/21/2003	Kristopher L. Tyra	480/US/2	7558

59555   7590   03/08/2007
RATHE PATENT & IP LAW
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MEQUON, WI 53097

EXAMINER
SAEED, USMAAN

ART UNIT	PAPER NUMBER
2166	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No. .</td><td>Applicant(s)</td></tr>
<tr><td>10/624,720</td><td>TYRA ET AL.</td></tr>
<tr><td></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td>Usmaan Saeed</td><td>2166</td><td></td></tr>
</table>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 September 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-5</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 July 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Applicant's election without traverse of claims 1-5 in the reply filed on 9/18/2006

is acknowledged.

Claims 1-5 are pending in this office action.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claims 1-5 are rejected under 35 U.S.C. 101 as being directed to non-statutory

subject matter. The language of the claims raises a question as to whether the claims

are directed merely to an environment or machine which would result in a practical

application producing a concrete useful, and tangible result to form the basis of statutory

subject matter under 35 U.S.C. 101.

Software or program can be stored on a medium and/or executed by a computer.

In other words software must be a computer readable. The receive, store, and transmit

modules are software modules and are not claimed as being embodied in computer-

readable media. Therefore they are computer program per se because they are not

capable of causing computer programs functionality to be realized. See MPEP §

2106.IV.B.1 (a).

To expedite a complete examination of the instant application the claims rejected

under U.S.C. 101 (nonstatutory) above are further rejected as set forth below in

anticipation of application amending these claims to place them within the four

categories of invention.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C 102(e) as being anticipated by **Blott et**

al. (Blott hereinafter) (U.S. Patent No. 6,449,618).

With respect to claim 1, **Blott** teaches **an apparatus for performing operations**

on data within a network, comprising:

"a receive module for receiving from a machine in the network a request for

an operation to be performed on particular data content" as the real-time EPS 12

processes events on behalf of the real-time component 16, which may be, e.g., a

network switch, a service control point (SCP) or other element of a communication

system or network, and maintains summary and aggregation data over those events

(**Blott** Col 3, Lines 26-30). The term "event" as used herein is intended to include any

type of transaction involving contents of a database system, such as, for example, a

group of read, update, delete and/or modify operations (**Blott** Col 3, Lines 44-47).

"**a store module for locally storing, associated with the machine,**

information related to the operation" as the events are processed in accordance with

services implemented in the RAEs, and utilize data stored in a memory portion of the

main-memory database system accessible to the RAEs. The data may include, e.g., a

subscription table storing subscription information indicating the service or services that

should be executed for a given event (**Blott** Abstract).

"**a transmit module, associated with the entity, for implementing the**

operation and for transmitting an event relating to the operation for use in

communicating the operation to subscribers referencing the machine" as a main-

memory database system is coupled to the RAEs, and the RAEs process events

associated with input streams from one or more data sources and deliver output

streams to one or more data sinks. The data source and data sinks may be, e.g.,

network elements, clients, databases, etc (**Blott** Abstract Col 2, Lines 6-27 and figure

2).

With respect to claim 2, **Blott** teaches "**the apparatus of claim 1 wherein the**

receive module includes a module for receiving an identification of the machine"

as other examples of data sources or data sinks include the examples of the real-time

component 16 and EPS 12 given previously, e.g., computers or other types of digital

data processors (**Blott** Col 5, Lines 1-3).

With respect to claim 3, **Blott** teaches "**the apparatus of claim 1 wherein the**

receive module includes a module for transmitting a data cell including the

request" as (**Blott** figure 2).

With respect to claim 4, **Blott** teaches "**the apparatus of claim 1 wherein the**

transmit module includes a module for transmitting a data cell including the

event" as a main-memory database system is coupled to the RAEs, and the RAEs

process events associated with input streams from one or more data sources and

deliver output streams to one or more data sinks. The data source and data sinks may

be, e.g., network elements, clients, databases, etc (**Blott** Abstract Col 2, Lines 6-27 and

figure 2). A view over an output stream aggregates summary information over all the

events processed by the system. Frequently, chronicles represent either query results,

or processed-event records that are delivered to a data warehouse for archiving (**Blott**

Col 12, Lines 15-19).

With respect to claim 5, **Blott** teaches "**the apparatus of claim 1 wherein the**

receive module includes a module for receiving an add, update, delete, or find

operation" as the term "event" as used herein is intended to include any type of

transaction involving contents of a database system, such as, for example, a group of read, update, delete and/or modify operations (**Blott** Col 3, Lines 44-47).

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is listed on 892 form.

Examiner's Note: Examiner has cited particular figures, columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Contact Information

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usmaan Saeed whose telephone number is (571)272-4046. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571)272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Usmaan Saeed
Patent Examiner
Art Unit: 2166

Leslie Wong
Primary Examiner

US
February 22, 2007

HOSAIN ALAM
~~~~ PATENT EXAMINER